

Long Term Management Strategy for Dredged Material in the Delta (Delta LTMS)

DRAFT CHARTER

VISION

The Long Term Management Strategy is designed to improve operational efficiency and coordination of the collective and individual agency decision making responsibilities resulting in approved dredging and dredged material management actions in the Delta. Approved dredging and dredged material management actions will take place in a manner that protects and enhances Delta water quality, identifies appropriate opportunities for the beneficial reuse of Delta sediments for levee rehabilitation and ecosystem restoration, and establishes safe disposal for materials that cannot be reused.

GOALS

The Delta LTMS will facilitate development of long-term management approach for the Delta sediments based on science, enhanced communication and coordination among the stakeholders, and resolution of issues surrounding Delta dredging and beneficial use of sediments. The agency and stakeholder meetings will serve as a forum for developing a Delta Long Term Management Strategy for Delta sediments to be detailed in a Sediment Management Plan (SMP), and for promoting its implementation when adopted.

The goals of the Delta LTMS, to be finalized in the SMP, are to manage dredging and sediment management activities, including the following:

- Maintain and stabilize Delta levees that protect land-based activities and water conveyance
- Protect and enhance water quality for Delta water supply and ecosystem function
- Support and maintain Delta channel functions for navigation, flood control, water conveyance, and recreation
- Protect and enhance aquatic, wetland, and terrestrial ecosystems

OPERATING PRINCIPLES

The participating agencies of the Delta LTMS will operate under the Delta LTMS Process Framework, as last revised on <<insert date>>.

The participating agencies will work towards the timely completion and implementation of the Delta LTMS and Sediment Management Plan.

The participating agencies will continue to seek the participation of other agencies and stakeholders to the Delta LTMS Charter and Process Framework.

The agenda and issues to be addressed will be determined by the Delta LTMS agencies in consultation with other agencies and stakeholders.

The Delta LTMS will provide for peer review of technical studies through the Science Review Panel.

Information will be sought from stakeholders to help identify and clarify specific issues as well as provide factual data on the issues.

It is anticipated that the Delta LTMS will serve as a Regional Dredging Team under the National Dredging Policy.

Participating regulatory agencies shall retain their full authority to regulate dredging, reuse, and disposal activities, and nothing in this Charter or the Delta LTMS Framework shall restrict their authorities. Signatories do not indicate their approval for any specific project that may be proposed in the future.

MEMBERSHIP

The Delta LTMS is organized to include an executive committee, management committee, interagency working group, strategy review group, and science and technical groups as described in this section. In addition, public meetings will be held to provide additional opportunities for input and feedback from interested persons.

Executive Committee

At the top level, an Executive Committee directs the overall program, sets direction, and provides oversight of the study. Subject to their approvals, the directors of each of the following agencies serve on the Executive Committee. The executive managers have the decision-making authority to represent the agency on strategic and regulatory issues to be addressed, to the extent consistent with applicable laws, statutes, and regulations. The agency Executive Committee generally meets annually or as necessary to establish guidance for the study and keep abreast of the progress of the Delta LTMS.

Federal Agencies

- U.S. Army Corps of Engineers, Commander, South Pacific Division
- U.S. Environmental Protection Agency, Regional Administrator, Region 9

State Agencies

- State Water Resources Control Board, Board member

- California Regional Water Quality Control Board, Central Valley Region, Chairperson
- California Department of Water Resources, Director
- Resources Agency, CALFED Bay-Delta Program, Director
- Delta Protection Commission, Chairperson

Management Committee

The Management Committee consists of the deputy-level managers for the state and federal agencies. The Management Committee oversees the work of the Interagency Working Group (IWG) and the Strategy Review Group, reviews strategic recommendations, study plans, budget proposals, and provides recommendations to the Executive Committee. The Management Committee generally meets quarterly. Subject to their agency approvals, members of the Management Committee include:

- U.S. Army Corps of Engineers, District Commander, San Francisco District
- U.S. Army Corps of Engineers, District Commander, Sacramento District
- California Department of Water Resources, Deputy Director, Public Safety
- U.S. Environmental Protection Agency, Associate Director, Water Division, Region 9
- Resources Agency, CALFED Bay-Delta Program, Chief Deputy Director
- State Water Resources Control Board, Executive Director
- California Regional Water Quality Control Board, Central Valley Region, Executive Officer
- Delta Protection Commission, Executive Director
- NOAA Fisheries, Southwest Region
- U.S Fish and Wildlife Service, Pacific Region
- California Department of Fish and Game

Interagency Working Group

The Interagency Working Group (IWG) includes program-level staff at five agencies. The IWG serves as the primary program managers of the Delta LTMS process and steering committee for the Strategy Review Group. The IWG coordinates with the Management Committee, the Strategy Review Group and others with an interest in Delta activities and the LTMS process. The IWG's role is to identify study issues and questions to be addressed such as: identify technical work groups and expert resources, confirm purpose, charter, and assignments for the science advisory teams and technical review groups, discuss and review study work plans and scopes, discuss and review study budgets and resource needs, prepare and approve study reports, and develop management and policy options for the Management and Executive Committees. Subject to their approvals, the members of the IWG consist of the following:

- U.S. Environmental Protection Agency
- U.S. Army Corps of Engineers
- California Regional Water Quality Control Board, Central Valley Region
- Resources Agency, CALFED Bay-Delta Program
- California Department of Water Resources

The Management Committee may identify other participants in the IWG.

Strategy Review Group

Delta LTMS activities are informed by the Strategy Review Group. The Strategy Review Group will consist of Interagency Work Group members and other interested governmental agencies. The meetings will be open to the public with an opportunity for interested individuals and organizations to participate. The Interagency Working Group agencies will invite stakeholders, interest groups, and individuals working in or affected by Delta dredging and beneficial use activities for navigation, levee stability, flood control, water quality, or ecosystem restoration. The Interagency Working Group coordinates meetings monthly or as needed with the Strategy Review Group to identify, review, and discuss: 1) the Delta sediment issues of concern to be addressed by the Delta LTMS and in what order, 2) lines of inquiry that the science and technical work groups will be tasked to pursue, 3) coordinated regulatory approach for Delta dredging to be approved by the Executive Committee.

Members of the Strategy Review Group may also provide public comment at the Management and Executive Committee meetings. Subject to their approvals, the Strategy Review Group may include, but is not limited to the following agencies:

State and Federal Agencies

- NOAA Fisheries, Southwest Region
- U.S. Fish & Wildlife Service, Pacific Region
- California Department of Fish & Game
- Delta Protection Commission
- State Lands Commission
- Reclamation Board

Local/Regional Agencies

- Reclamation Districts
- Contra Costa, Sacramento, Solano, Yolo, and San Joaquin Counties
- North, Central, and South Delta Water Agencies
- The Ports of Sacramento and Stockton

In addition, members of the public will be invited to participate in the meetings of the Strategy Review Group, including, but not limited to, the following groups:

Stakeholders and Interest Groups

- Bay Planning Coalition
- DeltaKeeper
- The Nature Conservancy
- The Bay Institute
- Environmental Water Caucus
- California Sportfishing Protection Alliance
- California Farm Bureau Federation
- State Water Contractors
- California Delta Chambers

Science and Technical Groups

A Science Review Panel of independent scientists will be formed as determined by the Management Committee. The Management Committee may also establish science and technical work groups of agency staff, the meetings of which will be open to the public

AGREEMENT

Participants in the Delta Long Term Management Strategy agree to participate in the study activities and will operate under this Charter. The undersigned recognize that public agency signatories to this Charter have specific statutory and regulatory authority and responsibilities, and that actions of these public agencies must be consistent with applicable procedural and substantive requirements. Nothing in this Charter or the Delta LTMS Framework is intended to, or shall have the effect of, constraining or limiting any public entity in carrying out its statutory responsibilities to regulate dredging, reuse, and disposal activities. Nothing in this Charter constitutes an admission by any party as to the proper interpretation of any provision of law or policy, nor is anything in this Charter intended to, nor shall it have the effect of, waiving or limiting any public entity's rights and remedies under any applicable law.

The undersigned recognize that certain departments, boards, and commissions (Adjudicative Entities) have adjudicative responsibilities with respect to contested regulatory matters that are brought before them. (See California Gov. Code §§ 11400, et seq.) Such adjudicative responsibilities include the requirement that the Adjudicative Entity and its members avoid bias, prejudice, or interest in the adjudicative matters before them, e.g., they cannot decide the outcome of a matter before completion of any required hearing or equivalent proceeding.

Some such Adjudicative Entities exist within the undersigned agencies. This Charter does not in any way require or commit an Adjudicative Entity to participate in proposing a project that will come before it for approval, nor does this Charter require or imply that an Adjudicative Entity will approve a project that requires an adjudicative proceeding. Under this Charter, the role of Adjudicative Entities in connection with matters that may require an adjudicative decision is limited to promptly and diligently processing any applications, petitions, or other requests for approval. Nothing in this Charter commits an Adjudicative Entity to an approval or disapproval of any project subject to the authority of the Adjudicative Entity, nor to a term or condition in any approval of a project by the Adjudicative Entity.

Legal Consistency

All provisions of this Charter are intended and shall be interpreted to be consistent with all applicable provisions of State and Federal law.

The parties recognize that this Charter is not a contract. This Charter does not delegate to any agency, or the collective group of agencies, the authority to: (1) control another agency's final decision on a project; (2) modify or halt an agency's project; or (3) compromise an agency's discretion to pursue projects according to their individual

agency legal authority. This Charter facilitates cooperation and advice among the agencies; it shall not be interpreted to form a partnership, joint venture, or contract that requires federal agencies to analyze state projects and programs under the National Environmental Policy Act.

Contingent on Appropriation of Funds and Future Actions

The expenditure or advance of any money or the performance of any obligation of the United States under this Charter shall be contingent upon appropriation or allotment of funds in accordance with 31 USC 1341(Anti-Deficiency Act). No liability shall accrue to the United States for failure to perform any obligation under this Charter in the event that funds are not appropriated or allotted.

Activities and obligations, if any, under this charter pertaining to entities of the State of California are also subject to the availability of appropriated funds and to the independent decision-making authority of such entities. No liability shall accrue to such entities, or to the State of California, for failure to perform any action under this Charter in the event that funds are not appropriated or if any such entity declines to participate in any activity. Each participating agency's participation under this Charter is and shall remain voluntary.

This Charter shall be effective upon the date of signature of all participating agencies listed on page 7. This Charter may be signed in counterparts.

Signed by:

Colonel (P) John R. McMahon Date
Commander, South Pacific Division
U.S. Army Corps of Engineers

Wayne Nastri Date
Regional Administrator, Region 9
U.S. Environmental Protection Agency

Lester Snow Date
Director
California Department of Water Resources

Tam M. Doduc Date
Chairperson
State Water Resources Control Board

Robert Schneider Date
Chairperson
California Regional Water Quality Control Board, Central Valley Region

Joe Grindstaff Date
Director
CALFED Bay-Delta Program (Resources Agency)

Mike McGowan Date
Chairperson
Delta Protection Commission